

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Harrold, et al.

Serial No.: 10/563,121

Filed: January 3, 2006

Confirmation No.: 8039

Group Art Unit: 2622

Examiner: Vieaux, Gary C.

TKHR Ref. 250152-1820

TLC Ref. NP-6735-US-A

For: **Pixel Arrangement for an
Autostereoscopic Display Apparatus**

Petition to Withdraw Holding of Abandonment Under 37 C.F.R. §1.181

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Applicant hereby petitions the PTO to withdraw its holding of abandonment in the above-referenced patent application, as the application was abandoned for failure to respond to a Notice of Non-Compliant Amendment mailed October 7, 2010. This Notice, however, was never received by the firm of the undersigned.

Relevant Facts

Accordingly to the PTO's PAIR system, a Notice of Non-Compliant Amendment ("Notice") was mailed on October 7, 2010, in this application. The six month date for response expired on February 7, 2011. After that date, on February 11, 2011, the Examiner contacted the undersigned to inquire. The undersigned told the Examiner that the Notice was never received.

On February 15, 2011, the Patent Office mailed a Notice of Abandonment.

The undersigned has downloaded (from the PTO's PAIR system) an image copy of the Notice and has confirmed that the mailing address on the Notice is correct.

Therefore, it appears clear that a problem with the U.S. mail system (or even the U.S. PTO's system of properly delivering this Notice of the U.S. Postal Service) prevented proper delivery of that Notice.

The undersigned has further confirmed that this Office Action was never received by the firm of Thomas, Kayden, Horstemeyer & Risley, LLP.

At Thomas, Kayden, Horstemeyer & Risley, LLP, all incoming mail from the PTO is delivered directly to the docketing department of the firm. A file clerk scans every incoming item and saves the electronic version to the network. The mail is then delivered to the docketing clerk, who docket the received correspondence (and due dates for any required response). Then, a file clerk retrieves each corresponding file from the file shelf, couples the incoming correspondence to the proper file and writes the mail type and mailing date on the jacket of the file. The file is directed to an associated attorney/assistant for reporting to the client and preparing any appropriate response.

In the present case, upon receiving the phone call from the USPTO on February 11, 2011, the undersigned located the file on the file shelf of the file room. No Notice was in (or associated with) the file. Further, no electronic version was saved to the network, nor was any docket entry made (in the docket system for the office of the undersigned), as can be confirmed by a printout of the docket for this matter (attached hereto as Exhibit A). On the first page of Exhibit A is a section entitled "Remarks." There are two (2) listed items in this section. These are correspondence items that are received from the U.S. PTO. As can be verified, item 1 "3Mon.Office Action mailed 5/7/2010 rec'd 5/11/2010. (filed 7/30/2010)" The first portion of this entry is the docketed 3Mon. Office Action, which was mailed May 7, 2010. Also docketed is the receipt date (i.e., the date that the Office Action was received at the offices of the undersigned). Also docketed (parenthetically at the end of item 1) is the July 30, 2010 date on which the response to the Office Action was filed.

The next item (Item 2) is "Notice of Abandonment mailed 2/15/11, rcd 2/18/11." Had the Notice been received through the mail, it would have been docketed between these two items, and it also would have been scanned and saved to the network of the undersigned.

Also attached hereto (as Exhibit B) is a photocopy of the file jacket for this file. There is a table near the center of this cover that has three columns labeled: "USPTO COMMUNICATION DATED", "RESPONSE DUE", and "RESPONSE FILED". Entries are handwritten into this table as correspondence from the PTO is received and sent. The second to last entry in the left-hand column is "3 Mon. OA mailed 5-7-10." In the corresponding right-hand column is the entry "7/30/10" (indicating that the response was filed on July 30, 2010. Had the Notice of October 7, 2010 been received by the office of the undersigned, it would have been written onto the file jacket.

According to the October 25, 1993 U.S. PTO memo from Charles E. Van Horn (entitled "Withdrawing the Holding of Abandonment When Office Actions are not Received"), the foregoing facts are sufficient to have the abandonment withdrawn. Applicant files herewith a corrected, substitute response. Therefore, upon the granting of this petition, all is in order for the Applicant's response (substitute filed herewith) to be considered.

In addition to the foregoing, the undersigned hereby confirms that a master docket cannot be provided. The undersigned has checked with the docketing department, which has confirmed this with CPI (the provider of the docket system). Once a due date has passed, the docketing system cannot generate a master docket (for a date in the past). When "no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar, reminder system, or the individual docket record for the application in question." (MPEP § 711.03(c)(I)(A)).

In this matter, the undersigned has provided two of these alternative forms of evidence (a photocopy of the file jacket, and the individual docket record for the application in question). The docket system maintained by the firm of the undersigned is a Microsoft Access system, which is a relational database. Based on the fact that the underlying Notification of Non-compliant Appeal Brief did not appear in the docket record for the application in question, the undersigned can unequivocally state that the action item in question COUL D NOT have appeared in a master docket (if the individual action wasn't docketed, it could not have appeared on a master docket). Therefore, no

additional information would be gleaned by the Patent Office from a master docket (even if one could be generated and provided). In fact, the docket for the individual application in question is an equally informative piece of information and much more efficient, as the master docket would provide many pages of unrelated data that the Patent Office personnel would have to review (and again, would provide no information any more useful to the point in question).

Again, the attachments to this submission clearly demonstrate that the Notice was never received by Thomas, Kayden, Horstemeyer & Risley, LLP, despite the U.S. PTO having the proper address for the office of the undersigned.

Simply stated, in view of the foregoing, it is respectfully submitted that the abandonment of this application should be withdrawn.

In addition to the foregoing, the Undersigned further submits that the Notice of Non-Compliant amendment was incorrectly mailed. The basis for the non-compliance was that claim 27 was dependent upon canceled claim 26, rather than claim 25. This is really a 112, second paragraph issue, as opposed to a non-compliance issue. Further still, the mailing date of the non-compliant notice was October 7, 2010. The six-month due date from that mailing has not yet occurred. Thus, it appears that the abandonment was pre-mature, and erroneous, as the amendment filed on July 30, 2010 should have been entered, with claim 27 merely being subject to a 112, second paragraph rejection.

No fee is believed to be due in connection with this submission. If, however, any fee is deemed to be payable, you are hereby authorized to charge any such fee to deposit account 20-0778.

Respectfully submitted,

/Daniel R. McClure/

By:

Daniel R. McClure
Registration No. 38,962

Customer No. 24504

Country Application

Monday, February 21, 2011

Case Number: 250152-1820

Country: US United States of America

Sub Case:

Family Number: 250152-1820

Client Reference: NP-6735-US-A

Client :

Old Case Number:

Case Type: PCT

Application Status: Published

Status Date: 14-Apr-2009

Application No.: 10/563,121

Filing Date: 03-Jan-2006

Confirmation Number: 8039

Publication No.: 0164528

Publication Date: 27-Jul-2006

Customer Number: 24504

Patent No.:

Issue Date:

Expiration Date:

Patent Term Adj : 0 days

Tax Start Date:

Tax Schedule: LE

PCT App. No. PCTGB04/02975

PCT Filing Date 09-Jul-2004

Parent Patent No.:

Parent Issue Date:

Agent :

Agent Reference:

Assignee : AUOC AU OPTRONICS CORP

Title: PIXEL ARRANGEMENT FOR AN AUTOSTEREOSCOPIC DISPLAY APPARATUS

Remarks: 1. 3Mon.Office Action mailed 5/7/2010 rec'd 5/11/2010. (filed 7/30/10)
2. Notice of Abandonment mailed 2/15/11, rcd 2/18/11.

Actions:

Action Due	Due Date	Indicator	Action Taken	Responsible
PRELIMINARY AMENDMENT FILED	03-Jan-2006	Due Date	03-Jan-2006	
IDS FILED	30-Mar-2006	Due Date	30-Mar-2006	
POWER OF ATTORNEY/REVOC FILED	29-Apr-2008	Due Date	29-Apr-2008	
APPLICATION STATUS CHK	06-Nov-2008	Due Date	07-May-2010	
RESP TO OFFACT DUE IN 2MON	07-Jun-2010	Reminder	30-Jul-2010	
RESP TO OFFACT DUE IN 1MO	07-Jul-2010	Reminder	30-Jul-2010	
RESP TO OFFICE ACTION DUE	07-Aug-2010	Due Date	30-Jul-2010	
1ST EXT TO RESP TO OFFACT DUE	07-Sep-2010	Due Date	30-Jul-2010	
2ND EXT TO RESP TO OFFACT DUE	07-Oct-2010	Due Date	30-Jul-2010	
3RD EXT TO RESP TO OFFACT DUE	07-Nov-2010	Final	30-Jul-2010	
CHK FOR EXAMINER'S RPT	30-Jan-2011	Due Date	15-Feb-2011	
PETITION TO REVIVE IN 1M	15-Mar-2011	Due Date		
PETITION TO REVIVE DUE	15-Apr-2011	Final		

Assignment History:

From: HARROLD, JONATHAN
To: OCUIITY LIMITED

Date: 03-Jan-2006
Reel: 017446

Status:
Frame 0698

Country Application

Status: Monday, February 21, 2011

To: AU OPTRONICS CORP.

Case Number: 250152-1820

Country: From: WOODGATE, GRAHAM JOHN

Date: 03-Jan-2006

To: OCUITY LIMITED

From: OCUITY LIMITED

Reel: 020559

Status:

Reel: 017446

Date:

25-Feb-2008

Frame 0776

Sub Case:

US United States of America

Frame 0698

Inventors:

HARROLD, Jonathan

WOODGATE, John G

Priority Information:

Country

Case Type

Application Number

Filing Date

United Kingdom

0316221.1

10-Jul-2003

Create

mdh

22-May-2008 9:19 AM

Update

LaytonK

21-Feb-2011 12:43 PM

(Client Managing Attorney)
(File Responsible Attorney)
(Other Attorney/Paralegal)

Exhibit B

250157-1820

TKHR DOCKET NO.

SMALL ENTITY

FOREIGN FILED

2

U.S. PATENT APPLICATION

INVENTOR(S): Harold et al.

TITLE: Pixel Arrangement for an AutoStereoscopic Display Apparatus

SERIAL NO.: 101503.121

FILING DATE: 4/3/56

GROUP ART UNIT:

EXAMINER:

PUBLICATION DATE:

RESTRICTION REQUIRED:

IDS(S) FILED: ☒

TERMINAL DISCLAIMER:

DATE(S) FILED: 5/3/20

ASSIGNEE: AU Optronics

ASSIGN'T RECORDED:

REEL: _____ FRAME: _____

PATENT NO.:

ISSUE DATE:**EXPIRATION DATE:**[illegible]

MAINTENANCE DUE 3½, 7½, & 11½ Years From the Issue Date	REMINDER LETTER SENT TO CLIENT	FORMAL PAPERS SENT TO PTO	MAINTENANCE FEE ACCEPTED
			Exhibit B